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UNIVERSITY OF PITTSBURGH  
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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION

11 UNIVERSITY OF PITTSBURGH OF THE  
12 COMMONWEALTH SYSTEM OF HIGHER  
13 EDUCATION d/b/a UNIVERSITY OF  
PITTSBURGH

14 Plaintiff,

15 v.

16 VARIAN MEDICAL SYSTEMS, INC.

17 Defendant.  
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Case No. CV 08-02973 MMC

**STIPULATION AND ~~PROPOSED~~  
ORDER GRANTING PLAINTIFF'S  
ADMINISTRATIVE MOTION TO FILE  
UNDER SEAL PORTIONS OF A  
DOCUMENT TO UNIVERSITY OF  
PITTSBURGH'S REQUEST FOR  
JUDICIAL NOTICE ISO OF ITS  
OPPOSITION TO VARIAN MEDICAL  
SYSTEM INC.'S MOTION TO DISMISS.**

1 WHEREAS, Defendant Varian Medical Systems, Inc. filed under seal a Memorandum in  
2 Support of Defendant Varian Medical Systems, Inc.'s Motion for Summary Judgment for Lack of  
3 Standing, Or in the Alternative, Motion for a Preliminary Hearing on the Issue of Standing  
4 ("Varian's SJ Brief") on November 21, 2007, Docket No. 128, in the Western District of  
5 Pennsylvania action, Case No. 07-0491.

6 WHEREAS, Varian's SJ Brief contains information from documents that were designated as  
7 Confidential Attorney Eyes Only by University of Pittsburgh pursuant to the Protective Order  
8 (Docket No. 29, as amended Docket No. 331) entered in the Western District of Pennsylvania action,  
9 Case No. 07-0491.

10 WHEREAS, Defendant Varian Medical Systems, Inc. has filed in this Court Defendant  
11 Varian Medical Systems, Inc.'s Notice of Motion and Motion to Dismiss Plaintiff's Claims Pursuant  
12 to Fed. R. Civ. P. 12(b)(6) Based on Doctrine of Res Judicata; Memorandum of Points and  
13 Authorities in Support Thereof, Docket No. 50, on July 23, 2008.

14 WHEREAS, Plaintiff University of Pittsburgh intends to file an opposition to Defendant's  
15 Motion to Dismiss Plaintiff's Claims Pursuant to Fed. R. Civ. P. 12(b)(6) Based on Doctrine of Res  
16 Judicata.

17 WHEREAS, Plaintiff University of Pittsburgh intends to file a Request for Judicial Notice in  
18 Support of Its Opposition to Varian's Motion to Dismiss.

19 WHEREAS, Plaintiff University of Pittsburgh seeks to file under seal confidential portions  
20 of Varian's SJ Brief as an exhibit to its request for judicial notice.

21 THEREFORE, Plaintiff University of Pittsburgh, by and through its attorneys, hereby request  
22 that the Court order to be filed under seal the portions of Varian's SJ Brief indicated in Plaintiff's  
23 Administrative Motion to File Under Seal Portions of a Document to University of Pittsburgh's  
24 Request for Judicial Notice ISO Its Opposition to Varian Medical Systems, Inc.'s Motion to  
25 Dismiss, and Varian Medical Systems, Inc., by and through its attorneys, consent to entry of such an  
26 order.

1 Dated: August 15, 2008

DANIEL JOHNSON, JR.  
RITA E. TAUTKUS  
MORGAN LEWIS & BOCKIUS LLP

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4 By: /s/ Rita E. Tautkus

5 Rita E. Tautkus  
6 Attorneys for Plaintiff  
UNIVERSITY OF PITTSBURGH

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9  
10 Dated: August 15, 2008

WILLIAM L. ANTHONY  
MATTHEW H. POPPE  
ZHENG LIU  
ORRICK, HERRINGTON & SUTCLIFFE LLP

11  
12  
13  
14 By: /s/ Zheng Liu

15 Zheng Liu  
16 Attorneys for Defendant  
VARIAN MEDICAL SYSTEMS, INC.

17  
18 Pursuant to General Order No. 45, Section X(B) regarding signatures, I, Rita E. Tautkus,  
19 attest that concurrence in the filing of this document has been obtained from each of the other  
20 signatories. I declare under penalty of perjury under the laws of the United States of America that  
21 the foregoing is true and correct. Executed this 15th day of August, 2008, at San Francisco,  
22 California.

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24 /s/ Rita E. Tautkus  
25 Rita E. Tautkus  
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1 ORDER

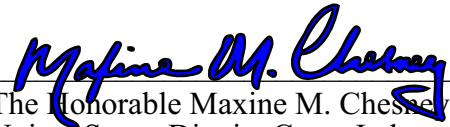
2 Upon good cause shown, IT IS HEREBY ORDERED that Plaintiff's Administrative Motion  
3 to File Under Seal Portions of a Document is GRANTED as follows:

4 The portions of Exhibit 2 to University of Pittsburgh's Request for Judicial Notice in Support  
5 of Its Opposition to Varian Medical Systems Inc.'s Motion to Dismiss Under Fed. R. Civ. P.  
6 12(b)(6) identified by University of Pittsburgh as sealable in the document lodged with the Clerk in a  
7 sealed envelope labeled "DOCUMENT SUBMITTED UNDER SEAL" in connection with its  
8 request for judicial notice SHALL be filed UNDER SEAL by the Clerk.

9 Plaintiff is hereby DIRECTED to file in the public record, no later than August 22, 2008,  
10 a redacted version of Exhibit 2.

IT IS SO ORDERED.

11 Dated: August 19, 2008

  
The Honorable Maxine M. Chesney  
United States District Court Judge